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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/235,531	01/22/1999	KARIN BIEBER	476	4591

7590 06/21/2002

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EXAMINER

CADUGAN, ERICA E

ART UNIT	PAPER NUMBER
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3722

DATE MAILED: 06/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/235,531

Applicant(s)

BIEBER ET AL.

Examiner

Erica E Cadugan

Art Unit

3722

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 May 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-16 (see appended explanation).

Claim(s) withdrawn from consideration: _____

8. ☒ The proposed drawing correction filed on 20 December 2001 is a) ☒ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

10. ☒ Other: Interview Summary *A. L. Wellington*
A. L. WELLINGTON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

ec 6/20/02

Continuation of 7. The proposed amendment overcomes most of the 112, 1st paragraph and 112, 2nd paragraph issues remaining in the case. It is noted however that the objection to the specification is still in effect as no marked-up copy of the amended abstract was yet provided. Additionally, note that in claim 8, line 16, "the torque transmission" still lacks sufficient antecedent basis as set forth in the previous office action. Also, note that in the final rejection mailed 3/6/02, it was indicated that there were several instances in the claims of limitations where insufficient antecedent basis for a limitation was provided, and that certain examples were provided. However, the list of examples was meant to be illustrative. It is noted that in claim 16, for example, "said driving spindle" lacks sufficient antecedent basis.

Claims 1-5, 7-12, and 14-16 would still be rejected under 35 USC 103(a) as being obvious over Bitter et al. in view of Tsai (U.S. Pat. No. 3,433,082 in view of U.S. Pat. No. 5,788,021). Claims 6 and 13 would still be rejected under 35 USC 103(a) as being obvious over Bitter et al. in view of Tsai and further in view of Zagar (U.S. Pat. No. 3,433,082 in view of U.S. Pat. No. 5,788,021 and further in view of U.S. Pat. No. 3,030,818)

Re Applicant's arguments regarding the combination of Bitter and Tsai, it is noted that there does not appear to be any reason why it would not be obvious to combine the Bitter and Tsai references as claimed. Note that if the motor shaft 25 arrangement taught by Bitter were replaced with a two-piece shaft and arresting mechanism as taught by Tsai, it would provide the benefits taught by Tsai of enabling the speedy and convenient replacement of tools of chucks (col. 3, lines 63-64 of the Tsai reference, for example). It is additionally noted that Tsai provides that the "output shaft of the tool" which Applicant alleges equates to the spindle shaft 43 of the Bitter reference can be an intermediate output shaft in that there can be a "speed change mechanism" (i.e., such as the transmission of Bitter) between Tsai's motor output shaft and the tool (col. 1, lines 27-30 of the Tsai patent). Note that the speed change mechanism of Bitter includes the offset shaft arrangement (see Figure 2 of the Bitter patent).

Applicant continues to refer to the "output shaft" taught by Tsai as being comparable only to the spindle shaft directly connected with the tool. Examiner sees no reason to so limit the interpretation of the Tsai reference. Again note that "output" is a relative term, and that although Applicant asserts that the "output shaft" 60 of the Tsai reference is only equivalent to the spindle shaft 43 of the Bitter reference, Tsai teaches that the motor shaft can be connectable to a "spindle shaft" via the aforescribed speed change mechanism (col. 1, lines 26-30). The offset shafts (25 and 43) taught by Bitter in combination with the gears thereon form the transmission or speed change mechanism. It therefore follows that it would be obvious, from the combined teachings of Bitter and Tsai, to replace the motor output shaft 25 taught by Bitter with Tsai's shafts and arresting device, thus connecting Tsai's shaft 60 to the speed change mechanism/transmission of Bitter via the gears on the spindle shaft as taught by Tsai for the reasons set forth in the rejection and described above.

Additionally note that replacing the motor shaft 25 of the Bitter device with the shaft/arresting device arrangement provided by Tsai would provide that, as the motor shaft 25 is offset radially from the striking device that strikes spindle shaft 43, the arresting device/shaft arrangement would thus likewise be so offset, and would thus not be subject to the strikes.

Also note that the present claim language found in the independent claims "said arresting device being arranged between" is sufficiently broad to encompass the fact that once Tsai's arresting device/shaft arrangement is located inside the housing at the location of the motor shaft 25 of Bitter's device as set forth in the obviousness rejection based thereon, the arresting device of Tsai's device is physically located "between" the external surface of the intermediate shaft(s) of Tsai's teaching and the housing of Bitter. Note that Merriam Webster's Collegiate Dictionary, 10th ed., defines "between" as follows: "in the time, space, or interval that separates", and note that thus the space or interval that separates the shaft and the housing is thus defined as "between".